

§ 301.7430-0

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filed with the Tax Court prior to the making of an assessment or levy that is subject to the section 7429 review procedures, and one or more of the taxes and tax periods before the Tax Court as a result of the petition is also included in the written statement that was provided to the taxpayer, then the Tax Court will have jurisdiction concurrent with the district courts over any civil action for a judicial determination with respect to all the taxes and tax periods included in the written statement. In all other cases, the appropriate United States district court continues to have exclusive jurisdiction over such an action.

[T.D. 8453, 57 FR 58985, Dec. 14, 1992]

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§ 301.7430-6 *Effective date.*

[T.D. 8542, 59 FR 29360, June 7, 1994, as amended by T.D. 8725, 62 FR 39118, July 22, 1997]

§ 301.7430-1 Exhaustion of administrative remedies.

(a) *In general.* Section 7430(b)(1) provides that a court shall not award reasonable litigation costs in any civil tax proceeding under section 7430(a) unless the court determines that the prevailing party has exhausted the administrative remedies available to the party within the Internal Revenue Service. This section sets forth the circumstances in which such administrative remedies shall be deemed to have been exhausted.

(b) *Requirements—(1) In general.* A party has not exhausted the administrative remedies available within the Internal Revenue Service with respect to any tax matter for which an Appeals office conference is available under §§ 601.105 and 601.106 of this chapter (other than a tax matter described in paragraph (c) of this section) unless—

(i) The party, prior to filing a petition in the Tax Court or a civil action for refund in a court of the United States (including the Court of Federal Claims), participates, either in person or through a qualified representative described in § 601.502 of this chapter, in an Appeals office conference; or

(ii) If no Appeals office conference is granted, the party, prior to the issuance of a statutory notice in the case of a petition in the Tax Court or the issuance of a notice of disallowance in the case of a civil action for refund in a court of the United States (including the Court of Federal Claims)—

(A) Requests an Appeals office conference in accordance with §§ 601.105 and 601.106 of this chapter; and

(B) Files a written protest if a written protest is required to obtain an Appeals office conference.

(2) *Participates.* For purposes of this section, a party or qualified representative of the party described in § 601.502 of this chapter participates in an Appeals office conference if the party or qualified representative discloses to the Appeals office all relevant information regarding the party's tax matter to the extent such information and its

relevance were known or should have been known to the party or qualified representative at the time of such conference.

(3) *Tax matter.* For purposes of this section, "tax matter" means a matter in connection with the determination, collection or refund of any tax, interest, penalty, addition to tax or additional amount under the Internal Revenue Code.

(4) *Failure to agree to extension of time for assessments.* Any failure by the prevailing party to agree to an extension of the time for the assessment of any tax will not be taken into account for purposes of determining whether the prevailing party has exhausted the administrative remedies available to the party within the Internal Revenue Service.

(c) *Revocation of a determination that an organization is described in section 501(c)(3).* A party has not exhausted the administrative remedies available within the Internal Revenue Service with respect to a revocation of a determination that it is an organization described in section 501(c)(3) unless, prior to filing a declaratory judgment action under section 7428, the party has exhausted its administrative remedies in accordance with section 7428, and any regulations, rules, and revenue procedures thereunder.

(d) *Actions involving summonses, levies, liens, jeopardy and termination assessments, etc.* (1) A party has not exhausted the administrative remedies available within the Internal Revenue Service with respect to a matter other than one to which paragraph (b) or (c) of this section applies (including summonses, levies, liens, and jeopardy and termination assessments) unless, prior to filing an action in a court of the United States (including the Tax Court and the Court of Federal Claims)—

(i) The party submits to the district director of the district having jurisdiction over the dispute a written claim for relief reciting facts and circumstances sufficient to show the nature of the relief requested and that the party is entitled to such relief; and

(ii) The district director has denied the claim for relief in writing or failed to act on the claim within a reasonable